

The Atchison Topeka And Santa Fe

Between San Francisco and Chicago
Via Albuquerque, and Kansas City.

Snead Comfort and Elegance
Pullman and Dining Service Unsurpassed.

Passing through the Grandest Scenery of the West
F W Prince, Agent, 641 Market St. San Francisco Cal

Sacramento Saloon

ANDY TODD, Prop.

The best of liquid refreshments always on hand, including imported
and domestic goods.

Good Cigars are a part of our stock.

You never make a mistake at the old corner.

The Eagle Market

Our Meats are the best, if you are not
satisfied with the place you are trading
call on us. Our motto is "The Best."
A pleased patron means a steady customer

The Eagle Market

ANNUAL STATEMENT

Of The Home Insurance Co. of New

York.

Capital (paid up).....\$ 3,000,000 00

Assets.....21,239,052 88

Liabilities, exclusive of capi-

tal and net surplus 9,518,551 54

Income

Premiums.....8,785,528 49

Other sources.....853,478 14

Total income, 1905 9,639,006 63

Expenditures

Losses.....4,240,249 45

Dividends.....600,000 00

Other expenditures.....3,032,720 90

Total expenditures, 1905 7,872,970 35

Business, 1905.

Risks written.....1,330,688,280 00

Premiums thereon.....13,244,369 17

Losses incurred.....6,137,946 32

Nevada Business

Risks written.....318,390 00

Premiums received.....7,150 53

Losses paid.....1,983 84

Losses incurred.....1,983 84

A. M. Brutis, Secretary.

ANNUAL STATEMENT

Of Business of the Nevada Co. for 1905

Receipts.....\$132,652 60

Disbursements.....147,864 57

X. M. Hickey, Cashier

SPECIAL EXCURSION FROM SAN

FRANCISCO TO CITY OF MEXICO

AND RETURN. DECEMBER 16th,

1905.

A select party is being organized by

the Southern Pacific to leave San

Francisco for Mexico City, December

16th, 1905. Train will contain fine

vestibule sleepers and dining car, all

the way on going trip. Time limit

will be sixty days, enabling excursion-

ists to make side trips from City of

Mexico to points of interest. On re-

turn trip, stopovers will be allowed at

points on the main lines of Mexican

Central, Santa Fe or Southern Pacific.

An excursion manager will be in

charge and make all arrangements.

Round trip rate from San Francisco

\$80.00.

Pullman berth rate to City of Mex-

ico, \$12.00.

For further information address in-

formation Bureau, 613 Market street,

San Francisco Cal.

For Bargains in toys go to Ward's

where every article is cut to cost

price.

Dill and sweet pickles, India Relish

Chutney Picadillo and Chow, all

Heinz goods, best on earth, to be had

at Meyers Merc. Co.

Notice of Application for Permission
to appropriate the Public Waters of
the State of Nevada.

Notice is hereby given that on the

12th day of Sept., 1905, in accordance

with Section 23, Chapter XLVI, of the

Statutes of 1905, one Philip V. Mighels

and Frank L. Wildes of Carson,

County of Ormsby and State of Ne-

vada, made application to the State

Engineer of Nevada for permission to

appropriate the public waters of the

State of Nevada. Such application to

be made from Ash Canyon creek at

points in N E 1/4 of S W 1/4 of section

10 T 15 N R 19 E by means of a dam

and headgate and five cubic feet per

second is to be conveyed to points

in N E 1/4 of S W 1/4 of section 11,

T 15 N R 19 E, by means of a flume

and pipe and there used to generate

electrical power. The construction

of said works shall begin before June

1, 1906, and shall be completed on or

before June 1, 1907. The water shall

be actually applied to a beneficial use

on or before June 1, 1908.

Signed:

HENRY THURTELL,

State Engineer.

SCHOOL APPORTIONMENT.

STATE OF NEVADA,

Department of Education,

Office of Superintendent of Public In-

struction,

Carson City, Nevada, July 11, 1905

To the School Officers of Nevada:

Following is a statement of the sec-

ond semi-annual apportionment of

School Moneys for 1905, on the basis

of \$6.990202 per census child:

Counties children Amt.

Churchill.....135 \$ 943 68

Douglas.....317 2,215 90

Elko.....1,120 7,829 02

Esmeralda.....217 1,516 97

Eureka.....389 2,719 20

Humboldt.....741 5,164 46

Lander.....318 2,223 22

Lincoln.....764 5,298 46

Lyon.....499 3,458 72

Nye.....383 2,683 46

Ormsby.....627 4,368 72

Storey.....939 6,523 46

Washoe.....2,412 16,860 26

White Pine.....525 3,669 83

Total.....9,430 \$65,917 61

Joe Platt has received samples of

tallor made suitings which are, with-

out doubt the finest ever shown in

this city. A number of suits have

already been made and they are per-

fect fits in every case. Get your

measures taken and do it before the

best samples are gone. He guaran-

tees a fit or no pay.

IN THE SUPREME COURT OF THE STATE OF NEVADA.

Appealed From the Fourth Judicial
District Court, Elko County, Ne-
vada.

The State of Nevada,
Plaintiff and Respondent,
against

Paul Lovelace,
Defendant and Appellant.
Attorney General James G. Sweeney,
Attorney for State.

Wm. Woodburn, Attorney for Appel-
lant.

Defendant appeals from a judgment
rendered against him in the District
Court in and for Elko county for the
crime of burglary; and he assigns two
reasons why, as he claims, judgment
should be reversed.

First, the insufficiency of the in-
dictment on which the judgment was
based; and

Second, the absence of corroborat-
ion of the testimony of an accomplice
who testified against the defendant.

Under the first head the point made
is on the proper interpretation of the
following clause in the indictment:

"The said Paul Lovelace on the 11th
day of May, 1904, in the night time,
said day, or thereabouts, in the County
of Elko, State of Nevada, without au-
thority of the law and before the find-
ing of this indictment, did wilfully,
unlawfully and burglariously break
and enter the building of one Alexan-
der Burrell."

Counsel for defendant in his or
her brief, if an unsigned paper in the
usual form of a brief found among the
papers in the case as they appear filed
in this court, is by us treated as a
brief, say:

"Appellant claims that this indict-
ment is not good at common law, be-
cause the words 'or thereabouts', re-
late to and qualify the words 'might
time'. This question was not raised
in the court below, but is here pre-
sented for the first time.

The question is not whether the in-
dictment would be good 'at common
law'. It is whether it is good under
the statute of Nevada that governs
the subject. The subject is governed
by the sections following concerning
indictments:

Section 4199, Compiled Laws, 1900,
provides that the indictment shall
contain "a statement of the facts con-
stituting the offense, in ordinary and
concise language, and in such manner
as to enable a person of common under-
standing to know what is intended."

Section 4206, Compiled Laws, 1900,
has the following: "The words used
in an indictment shall be construed
in the usual acceptance in common
language, except such words and
phrases as are defined by law, which
are to be construed according to their
legal meaning."

Section 4208, Compiled Laws, 1900,
provides: "Sixth—That the act or omission
charged as the offense is clearly and
distinctly set forth in ordinary and
concise language, without repetition,
and in such a manner as to enable a
person of common understanding to
know what is intended."

Section 4209 is as follows:
"No indictment shall be deemed
insufficient, nor shall the trial, judg-
ment, or the proceeding thereon, be
affected, by reason of any defect or
imperfection in matters of form,
which shall not tend to the prejudice
of the defendant."

The foregoing enactments show that
it was the intention of the legislature
of Nevada that in construing indict-
ments the courts should not indulge
in a too exact and over-strict view
of language; but that certainty to a com-
mon intent was all that should be
required.

True, in the paragraph of the in-
dictment under discussion, there is
something of a departure from the
best models of grammatical, rhetorical
or linguistic expression. But we think
the paragraph meets the
requirement of the statute that "the
acts constituting the offense should be
charged in ordinary and concise lan-
guage, and in such manner as to en-
able a person of common understand-
ing to know what is intended." To
hold the indictment not fatally bad is,
we think, to keep within the statu-
tory command, as expressed above
in section 4206, or at least not to de-
part too far from such command, to-
wit, to construe "in the usual accept-
ance in common language."

We think the defect of the indict-
ment complained of was such as in the
language of Section 4209, above quoted,
was a "defect or imperfection in
matter of form, which did not tend
to the prejudice of the defendant."

The language of the indictment
could doubtless be made more accu-
rate; but we think it is not fatally
defective. In brief of Counsel for de-
fendant the following correction is of-
fered:

"If the words 'or thereabouts' had
been inserted after the words 'on the
11th day of May, 1904', the indict-
ment could not be the subject of criti-
cism or assault."

Perhaps the following phraseology
might be considered an improvement
on the phraseology of the indictment:
The said Paul Lovelace did in the
night time of the 11th day of May,
1904, or in the night time of some
day thereabouts the said 11th day
of May, 1904, enter, etc.

Said Paul Lovelace did, in the night
time, on or about the 11th day of
May, 1904, enter, etc.

It might perhaps be considered a little
better collocation of words, although
this is something of a departure from
the form suggested in the statute con-
cerning the form of indictments.

That mere grammatical, punctua-
tional (if verbal "free collage" may
be allowed), rhetorical or linguistic
error does not always vitiate is fully
sustained by decisions of courts and
text writers. The following notably
excellent authority is cited to sus-
tain this doctrine:

Cyclopedia of Law and Procedure
(Cyc.) vol. 6, page 199; and authori-
ties there mentioned.

While this indictment, in the respects
mentioned is in truth inartistically
drawn, yet under the statutes and the
authorities above stated, we cannot
say that it is fatally defective. The
sections of the statute above quoted
show that the legislative intent was
that the courts of the State should
give interpretations liberal to sustain
rather than rigid to overthrow in-
dicments when, as in this case sub-
stantial rights of defendants are not there-
by prejudiced; and as we have from
the authority mentioned seen that
even under the common law to over-
throw this indictment would seem too
rigid an interpretation.

Under the second head the error
claimed is stated in the brief of Coun-
sel for defendant as follows:

"On the trial of appellant the de-
position of one Ross, taken at the pre-
liminary examination was read in
evidence, because he broke jail and
escaped before the trial and his pres-
ence could not be procured.

"He testified that he and appellant
entered the store of Alexander Burrell
on the day named in the indictment,
stole a lot of amalgam of the value
of about \$2400, and buried it a short
distance from the scene of the crime.
Appellant claims there was no testi-
mony corroborative of that of Ross,
and that a conviction could not be
had."

In this contention Counsel is, we
think, clearly mistaken. Besides
minor points of corroboration, not nec-
essary to be mentioned here, the testi-
mony of the witness W. J. Davidson
corroborates the testimony of the ac-
complice Ross. Davidson testifies that
the defendant requested him (David-
son) "to help him rob the store at
Edgemont", that is the store that was
robbed. Davidson further testifies
that the defendant "told him he would
have got the amalgam if something
had not happened"—the amalgam was
the article stolen in the robbery. Davidson
further testifies that the de-
fendant was trying to dispose of the
amalgam, the thing stolen; and asked
Davidson this question: "What
am I going to do about that damned
stuff?"

If this testimony was true, and its
truth was a question entirely for the
jury, there was corroboration of the
testimony of the accomplice Ross.

Defendant fails in sustaining either
of his two points urged in argument
for the reversal of the judgment.

The judgment is therefore affirmed.

Fitzgerald, C. J.

We Concur:

Talbot, J.

Norcross, J.

Filed January 4, 1906.

TOURIST EXCURSION PARTIES TO THE EAST.

Over the Scenic Line of the World.

If you are going east and want to
save money, yett ravel with pleasure
and comfort, it will pay you to in-
vest our personally conducted tourist
excursions. The parties are in charge

of a Manager who accompanies the
cars through t oSt. Louis, Chicago
and the Atlantic Coast and gives his
personal attention to the welfare of
each passenger in his charge. The
schedules are arranged so you pass
through the world-famed scenery on
the Denver and Rio Grande Railroad
by daylight. Open-top Observation
cars (something entirely new) are
free to all passengers. Let us know
where you are going and we will
be glad to give you full information
about your trip, the lowest rates of
fare and send you free of charge some
handsome illustrated books of travel.

W. J. SHOTWELL,

General Agent.

625 Market Street, San Francisco, Cal.

Cattle and Horses.

The City Marshal gives warning

that all loose stock found on the

streets from this time on will be em-

pounded. A strict attention to the

parties owning stock will take warn-

city ordinance will be enforced and

impounding fines will be impos-

ed in every case.

Wm. Kinney,

Marshal.

LADIES: I make from \$18 to \$30

per week and want all to have the

same opportunity. The work is very

pleasant and will pay you very hand-

somely for even your spare time. I

speak from experience as I have fre-

quently made \$5.00 in a single day.

This is no deception. I want no

money and will gladly send full par-

ticulars to all. Address,

MRS. W. W. MITCHELL,

Box. 10, Portland Maine.

Notice to Hunters.

Notice is hereby given that any

person found hunting without a permit

on the premises owned by Theodore

Winters, will be prosecuted. A lim-

ited number of permits will be sold

at \$5 for the season or 50 cents for

one day.

A. C. WINTERS.

Take a look at the new ties that

are being shown at Platt's.

Ward is closing out his \$20,000

stock at a sacrifice. This is an op-

portunity for Christmas shoppers.

Liberal Offer.